

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

KRISSY SANCHEZ,

Plaintiff,

vs.

FRIEDEL LLC, et al.,

Defendants.

Cause No. CV 18-91-BLG-SPW-TJC

ORDER and FINDINGS AND
RECOMMENDATION
OF U.S. MAGISTRATE JUDGE

Plaintiff Krissy Sanchez filed this action on June 4, 2018, challenging defendants' actions in connection with the care and custody of her children.

On June 3, 2019, Defendants moved to dismiss the complaint for lack of subject-matter jurisdiction. They assert that "the jurisdiction of this court is based on Diversity of Citizenship," 28 U.S.C. § 1332. *See* Br. in Supp. of Mot. to Dismiss (Doc. 18) at 4, 9.

Plaintiff Sanchez failed to respond to the motion. Because the motion seeks dismissal, however, the Court may not deem her failure to respond an admission that the motion is well-taken. *See* D. Mont. L.R. 7.1(d)(1)(B)(i) (Feb. 1, 2019). In addition, the Court is required by law to hold "a *pro se* complaint, however inartfully pleaded . . . to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam).

The premise of Defendants' argument is mistaken. Plaintiff amended her complaint from diversity jurisdiction to federal question jurisdiction. *See* Pl. Mot. to Am. (Doc. 12) at 1; Order (Doc. 13) at 2. Defendants' mistake was a reasonable one, as the amended complaint does not allege any basis for jurisdiction. Nonetheless, Plaintiff does not invoke 28 U.S.C. § 1332 but § 1331.

Based on the foregoing, the Court enters the following:

ORDER

1. If the district court denies Defendants' motion to dismiss, Defendants must file an answer to the complaint (Docs. 2, 12-1, 14-1) within 14 days of the district court's order. *See* Fed. R. Civ. P. 12(a)(4)(A).

2. The clerk will serve on defense counsel one free copy of each document filed in this matter to date.

The Court also enters the following:

RECOMMENDATION

Defendants' motion to dismiss for lack of subject-matter jurisdiction (Doc. 17) should be DENIED.

DATED this 1st day of July, 2019.

/s/ Timothy J. Cavan
Timothy J. Cavan
United States Magistrate Judge